

**CHIROPRACTIC EXAMINING BOARD  
MINUTES  
September 9, 2004**

**PRESENT:** Steven Conway, Susan Feith, Char Glocke, Wendy Henrichs, James Rosemeyer, James Weber

**EXCUSED:** None

**STAFF PRESENT:** Tom Ryan, Bureau Director of Health Professions; Jacquelynn Rothstein; Legal Counsel, Gina York, Bureau Assistant, and Division of Enforcement and other staff

**GUESTS:** Nicole Boryczka, WPTA; Wendy Kammerud, WCA; Jeremy Leviz, WI Medical Society

**CALL TO ORDER**

James Rosemeyer, Chair, called the meeting to order at 8:00 a.m. A quorum of 6 members was present.

**APPROVAL OF AGENDA**

**Additions to the Agenda:**

- Open Session: Under Item C. – Add Copy of Emergency Rules Regarding Criminal Background Investigations
- Open Session: Under Item J. – Add Practice Question: Anodyne Therapy
- Open Session: Under Item L. – Add CCE COA Election Announcement and FYI: FCLB District Meeting Schedule
- Closed Session: After Deliberation of Monitoring that May Be Received After the Mailing of the Agenda – Add Names Margaret Mertens, D.C., Michael La Blanc, D.C., and Christian Zebransky, D.C.
- Closed Session: Under Item P. – Add Letter from Boyle, Boyle, & Boyle, S.C. Regarding Warren A. Witkowski, D.C.

**MOTION:** Steven Conway moved, seconded by James Weber, to approve the agenda as amended. Motion carried unanimously.

## **APPROVAL OF MINUTES OF JULY 8, 2004**

### **Amendments to the Minutes:**

None.

**MOTION:** James Weber moved, seconded by Steven Conway, to approve the July 8, 2004 minutes as written. Motion carried unanimously.

## **PRESENTATION OF PROPOSED STIPULATIONS**

There was one proposed stipulation before the Board at today's meeting regarding Harold Dykema, D.C.

## **PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA**

There were no additional stipulations before the Board at today's meeting.

## **ADMINISTRATIVE REPORT**

Tom Ryan, Bureau Director of Health Professions, informed the Board there was nothing to report at this time.

## **APPOINTMENT OF CREDENTIALING LIAISON**

After some discussion, the Board does not wish to appoint a credentialing liaison at the time.

## **REVIEW OF BOARD MEMBER ROSTER**

The Board reviewed the copy of the Board roster provided by Roxanne Peterson to use in creating a Department database. There was one change and this information will be forwarded to Ms. Peterson to update for the new database.

## **REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES**

Jacquelynn Rothstein, Legal Counsel, reviewed the summary reports with the Board at today's meeting. The Board expressed concerns regarding several cases that have appeared these reports for some time now and they have not seen any movement. The Board would like a status report regarding these cases at the next Board meeting. A copy of the emergency rule regarding criminal background checks was shared with the Board and Attorney Rothstein shared the reasoning behind this rule at today's meeting.

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**FYI: APPROVED NEW RULES EFFECTIVE AUGUST 1, 2004**

The Board was provided a copy of the new chiropractic rules that went into effect on August 1, 2004 and it was suggested by legal counsel that board members place them with their codebooks for future reference. The Board expressed concerns regarding how the Department will notify credential holders that there are new rules since there is not a Regulatory Digest. The Board would like to have Kimberly Nania, Bureau Director of Health Services Professions, to discuss with the Department if a one page bulletin could send out to all licensees notifying them of new rules and where they can be obtained. After this discussion, the Board took the following action.

**MOTION:** Steven Conway moved, seconded by Char Glocke, to request Kimberly Nania to see if there is a way to get information out to licensees about the new rules without a Regulatory Digest, to contact WCA to ensure they are aware and ask them to assist in spreading this information, and for Kimberly Nania to verify that the rules have been placed on the DRL Website. Motion carried unanimously.

The Board asked that today's Chiropractic candidates be made aware of the fact there are new rules, the effective date, and to refer them to the DRL Website.

**STATUS OF RULES PERTAINING TO QUALIFICATIONS FOR INSTRUCTORS**

Jacquelynn Rothstein, Legal Counsel, and Susan Feith have been working together to prepare draft rules regarding qualified instructors. Susan Feith provided suggestions to legal counsel for inclusion in the draft rules. At today's meeting, the draft rules had not been prepared by legal counsel and therefore could not be reviewed by its members. After much discussion, the Board requested Attorney Rothstein to prepare the draft rules regarding qualified instructors. She should then send by email to all Board members, Kimberly Nania and Gina York; a copy of these draft rules and a copy of Susan Feith's comments that was provided to legal counsel. This will ensure that everyone will have sufficient time to review the material prior to the November 2004 Board meeting.

**PRECEPTOR APPROVALS**

The Board reviewed the list of preceptors provided by Julie Reimann, Credentialing for the Board's approval. The list included the following individuals: Lance W. Kirchman, Jay LaGuardia, Erin M. Spencer-Smith, Rex J. Knauf, Duane C. Strong, Daniel D. Lyons, Lynn R. Thompson, and Paula L. Benbow.

**MOTION:** Wendy Henrichs moved, seconded by Char Glocke, to approve the preceptors presented at the September 9, 2004 meeting. Motion carried unanimously.

## **PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA**

None.

## **DISCUSSION OF ENDORSEMENT APPLICATIONS TO ADVISE CREDENTIALING**

Julie Reimann discussed with the Board how she currently handles endorsement applications. Currently, the Board has requested they would like to look at all endorsement applications for approval. Ms. Reimann would like to know if the Board would delegate this task to her for making a determination on such applications. The Board requested that over the next couple of months, Ms. Reimann should continue with the current process for endorsement applications, but she should also include her recommendations on each application when she submits it to the Board during this time period. The Board will monitor this during the next couple of months to determine if this task can be delegated to her. The Board reminded Ms. Reimann that Chiropractors seeking endorsement must be licensed three out of the last five years and she should refer to the rules regarding endorsement if she has questions.

## **RESPONSES FROM LETTERS SENT TO WCA AND TO SCHOOLS INTERNET-BASED CE PROGRAMS**

The Board had an in-depth discussion regarding internet based CE programs. Steven Conway did not participate in this discussion. The Board brought forth questions and shared concerns if a specific number of CE credits from some internet courses would be allowed for the next biennium. The Board looked at the Administrative Rules Chiro 5.01 and Chiro 5.02 to see if there was a connection to the requirements at this time. The major concerns surrounding the allowance of internet courses were security, attendance, who is responsible, course criteria, timeframe requirements, test taking, if schools providing courses are qualified to instruct the course, has the association involved approved the course, and whether any rule changes would be needed. The Board has already done a scope statement regarding this issue and would like input from Barbara Showers, Office of Education and Examinations, regarding setting CE standards and implementation of them. After a lengthy discussion, the Board took the following action.

**MOTION:** Susan Feith moved, seconded by Char Glocke, to approve the allowance of up to twelve credits of CE Internet-based education and to implement as soon as possible in the next biennium starting in January 2005. Roll call vote: Char Glocke-Yes; Wendy Henrichs-No; James Weber-No; Susan Feith-Yes; James Rosemeyer-Yes; Steven Conway-Abstained. Vote Tally: Affirmed – 3, Opposed – 2, Abstained – 1. Motion carried.

**MOTION:** James Weber moved, seconded by Wendy Henrichs, to allow James Rosemeyer to meet with Palmer College and WCA, Char Glocke to contact the Wisconsin Real Estate Association, and James Weber to contact Northwestern College, to discuss concerns regarding internet-based courses. Steven Conway-Abstained. Motion carried.

Jacquelynn Rothstein, Legal Counsel, will prepare draft language regarding CE internet-based courses for the Board to review at the November 2004 meeting.

### **DISCUSSION REGARDING COLD LASER AND RESPONSES FROM LETTERS SENT TO SCHOOLS REGARDING COLD LASER AND WCA OPINION**

The Board reviewed the responses received regarding cold laser and discussed how this technique should be used. Steven Conway did not participate in this discussion. The Board took the following action at today's meeting.

**MOTION:** James Weber moved, seconded by Wendy Henrichs, to approve cold laser for FDA approved uses and recommend twelve hours of CE education prior to patient application. Roll call vote: Char Glocke-Yes; Wendy Henrichs-Yes; James Weber-Yes; Susan Feith-Yes; James Rosemeyer-Yes; Steven Conway-Abstained. Vote Tally: Affirmed – 5, Opposed – 0 , Abstained – 1. Motion carried.

### **CORRESPONDENCE REGARDING COLD LASER VARNISH CHIROPRACTIC CLINICS, LLP, PHYSICAL THERAPY AND MASSAGE THERAPY**

The Board reviewed the correspondence from Varnish Chiropractic Clinics, LLP, Physical Therapy and Massage Therapy and discussed it with Jacquelynn Rothstein, Legal Counsel. She will respond on behalf of the Board and relay the board's decision made at today's meeting.

### **UPDATE ON GRANTING DIPLOMATE STATUS STEVEN CONWAY**

Steven Conway shared information he gathered regarding diplomate status. The original request to the Board was regarding the acceptance of a course as a diplomate course in neurology. Since this is an invasive technique, the Board took the following action.

**MOTION:** Steven Conway moved, seconded by Wendy Henrichs, to deny the request and for Jacquelynn Rothstein to respond to him that this course does not meet the diplomate status. Motion carried unanimously.

## **CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL**

The Board reviewed the practice questions with Jacquelynn Rothstein, Legal Counsel, at today's meeting. Attorney Rothstein will respond on behalf of the Board as directed and she will address requests made by the Board in dealing with these practice questions.

## **REQUEST FOR RECONSIDER APPLICATION FOR CE HOURS FOR "ORTHOPEDIC EXAM REVIEW"**

This issue has already been dealt with by James Weber and it was approved.

## **INFORMATIONAL ITEMS**

Noted.

## **CONSULT WITH LEGAL COUNSEL**

The Board consulted with Jacquelynn Rothstein, Legal Counsel, throughout today's meeting as needed.

## **VISITOR COMMENTS**

Noted.

## **CONVENE TO CLOSED SESSION**

**MOTION:** Steven Conway moved, seconded by Wendy Henrichs, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Wendy Henrichs-yes; Char Glocke-yes; James Rosemeyer-yes; and James Weber-yes.

Open Session recessed at 11:15 a.m.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Wendy Henrichs moved, seconded by James Weber, to reconvene into open session at 1:28 p.m. Motion carried unanimously.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

**MONITORING**

**JOHN ADERHOLDT**

**MOTION:** James Weber moved, seconded by Wendy Henrichs, to grant a three-month stay to John Aderholdt. Motion carried unanimously.

**MICHAEL LA BLANC**

**MOTION:** James Weber moved, seconded by Steven Conway, to deny Michael LaBlanc's request. Motion carried unanimously.

**MARGARET MERTENS**

**MOTION:** Wendy Henrichs moved, seconded by Susan Feith, to approve the course and request Ms. Mertens to show proof of successful completion, submit a notarized document from the course instructor, submit a 500 word essay summarizing the course and what she learned, and upon receipt of all materials, grant her an unlimited license. Motion carried unanimously.

**CHRISTIAN ZEBRASKY**

**MOTION:** Char Glocke moved, seconded by James Weber, to deny Christian Zebrasky's request for an extension to complete his CE requirements. To approve the clinical documentation, but deny the medical ethics course and the davenport course and deny CE courses online. Motion carried unanimously.

**APPLICATION REVIEW**

**KIM E. MCCANN-SWANSON, DC**

**MOTION:** Wendy Henrichs moved, seconded by Steven Conway, to approve the application regarding Kim E. McCann-Swanson. Motion carried unanimously.

## **STIPULATIONS**

### **HAROLD DYKEMA, DC**

**MOTION:** Char Glocke moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusions of Law, Order and Stipulation regarding Harold Dykema. Abstained - Jim Weber. Motion carried.

## **PROPOSED DECISIONS AND DISCIPLINARY PROCEEDINGS**

### **WARREN A. WITKOWSKI, (LS 0207231 CHI)**

**MOTION:** Wendy Henrichs moved, seconded by Steven Conway, to accept the proposed decision in the matter of disciplinary proceeding regarding Warren A. Witkowski. Abstained - Jim Weber. Motion carried.

## **DIVISION OF ENFORCEMENT CASE STATUS REPORT**

**MOTION:** James Weber moved, seconded by Steven Conway, to close case **01 CHI 038** for insufficient evidence with a notation regarding his recordkeeping.

## **OTHER BOARD BUSINESS**

Noted.

## **ADJOURNMENT**

**MOTION:** Wendy Henrichs moved, seconded by James Weber, to adjourn the meeting at 1:35 p.m. Motion carried unanimously.

**NEXT MEETING WILL BE  
NOVEMBER 11, 2004**